


MHNG010059242019 	Presented on : 01/07/2019
	Registered on: 02/07/2019
	Decided on : 04/05/2026
	Duration : 6 Y : 10 M : 3 Days
	<u>Exhibit No. 49</u>

BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS

TRIBUNAL, NAGPUR

[Presided over by Dinesh P. Surana]

M.A.C.P. No. 576 of 2019

Hemlata W/o Prakash Verma,
Age 38 years, Occu. Private Service,
Through General Power of Attorney
Prakash S/o Radheshyam Verma,
Age 41 years, Occu. Business,
R/o. Plot No.192, Opp. Khan Chakki,
Smruti Nagar, Bokhara, Distt. Nagpur.

...Petitioner

// Versus //

1] Deepak S/o Manohar Parasnani,
Aged Major, Occu. Owner,
R/o. 569, Chapru Nagar, Plot No.569,
Old Bagadganj, Garoba Maidan,
Distt. Nagpur.

...Respondents

2] The Manager,
Bajaj Allianz Ins. Co. Ltd.,
Rian House, 2nd Floor, Kingsway,
Sadar, Distt. Nagpur.

**[CLAIM PETITION FOR GRANT OF COMPENSATION U/SEC. 166
OF THE MOTOR VEHICLES ACT, 1988]**

Appearances:

Adv. S.S. Thakur for the petitioner.
Adv. D.G. Paunikar for the respondent No.1.
Adv. Kalpana Raut for the respondent No.2.

J U D G M E N T

[Delivered on 04.05.2026]

By this petition under Section 166 of the Motor Vehicles Act, compensation of Rs.9 Lacs is claimed by the petitioner on account of four-wheeler vehicular accidental injuries resulting in her permanent disability and losses.

2] It is the case of the petitioner that on 03.06.2019 at 05:30 a.m., she was riding her Activa bearing registration No. MH-40/BP-9940 (in short, "Activa"). Her relative Basanti Satyanarayan Kadel was the pillion rider thereon. While she was proceeding from the Saoner - Nagpur Highway road towards Nagpur Railway Station, near Wox Cooler, Koradi, Distt. Nagpur, a Maruti Car bearing registration No. MH-09/AB-6803 (in short, "Maruti Car"), being driven by its driver rashly and negligently, gave a dash to her Activa from behind. They fell on the road. She sustained grievous injury to her legs and other body parts. She was admitted to Alexis Hospital, Nagpur. Crime was registered against the driver of the Maruti Car for causing the said accident and accidental injuries to her and Basanti.

As per the petitioner, at the time of the accident, she was 38 years old. She was doing private service and earning Rs.10,000/-

per month. Due to the said accident, she is unable to work properly, and she was unable to do her job for 6 months. Her grievous injuries could not be cured. As such, on different heads, she claimed the above compensation from the respondent No.1, owner and respondent No.2, insurer of the Maruti Car.

3] The respondent No.1, owner of the Maruti Car, by way of written statement Exh.16, by taking general denials and defences, resisted the claim of the petitioner. He submitted that the story of the accident put forth by the petitioner is false and concocted. At the relevant time, the petitioner was riding an Activa without a licence. She herself lost control of the Activa and fell on the Road, due to which she sustained minor injuries. Based on the false information, the Koradi police station wrongly registered an offence against him. However, he admitted that at the time of the accident, his Car was insured with the respondent No.2.

4] The respondent No.2 insurance company, by way of written statement Exh.19, too, by taking general denials and defences, resisted the claim of the petitioner. They submitted that the FIR was lodged against the driver of the unknown vehicle. The spot panchnama does not reveal the presence of any vehicle at the spot of the accident. As such, it is clear that the alleged accident did not take place due to involvement of Maruti Car. Therefore, this claim petition under Section 166 of the Motor Vehicles Act is not maintainable. Without prejudice to their other contentions, they

have alternatively pleaded that the Maruti Car was insured under the “private car liability only policy”, whereas it was used for commercial purposes. The driver of the Maruti Car was not holding a valid and effective driving licence at the time of the accident; therefore, there was a willful breach of the terms and conditions of the policy of insurance of the Car by the respondent No.1. Petitioner was riding her motorcycle in the middle of the road. She and pillion rider were not wearing helmet at the time of the accident. Petitioner herself was a negligent rider of the motorcycle, and therefore, the sole tortfeasor.

5] Based on the rival contentions, Issues at Exh.20 were framed.

6] To substantiate her contentions, petitioner examined herself on oath and reiterated her pleadings in the petition by way of evidence affidavit Exh.21. Apart from her oral testimony, she has also placed her reliance on the documents, i.e. Form Comp AA, First Information Report (FIR), Crime Details Form / Spot panchnama. [The certified copies of the above documents are filed in connected M.A.C.P. No. 577 of 2019 (Basanti Kadel Vs. Deepak Parasnani + 1)].

7] Petitioner also examined the following witnesses.

PW-2 Ehtesham Akhil Ahmed at Exh.26, then working as Assistant Manager in Alexis Hospital, Nagpur, who deposed that

the petitioner was admitted in Alexis Hospital on 03.06.2019 and paid the medical expenses bills of Rs.5,171/- Exh.28 colly.

PW-3 Dr. Ninad Gawande at Exh.39, MBBS and MD and then working in Alexis Hospital, Nagpur, who deposed that the petitioner was admitted in Alexis Hospital on 03.06.2019 with a complaint of a road traffic accident. She was having generalised pain and multiple abrasions over the body surface. She was investigated radiologically. No fracture and no post-traumatic visceral injuries were noticed in her. She was managed conservatively and discharged on 10.06.2019, in stable condition. He proved her discharge summary (Article-A) issued by the Alexis Hospital.

PW-4 Dr. Abhinav Bhatnagar at Exh.40, Orthopaedic Surgeon and attached to Abhinav Multispeciality Hospital, Nagpur, who examined the petitioner on 24.09.2023 and assessed her permanent disability to the extent of 9%, and accordingly issued a permanent disability certificate in Form Comp B Exh.41.

8] By way of pursis Exh.42, the petitioner informed that she does not want to adduce further evidence.

9] The respondent No.1, owner of the Maruti Car, examined himself on oath and reiterated his pleadings by way of evidence affidavit Exh.43. He proved his driving licence Exh.45,

whereby he was authorised to drive a Light Motor Vehicle, and which was valid on the date of the accident too. He has also proved the policy of insurance, Exh.46 of his Maruti Car.

10] By way of pursis Exh.47, respondent No.1 also closed his side.

11] None was examined for and on behalf of the respondent insurance company, and they closed their evidence by way of pursis Exh.48.

12] Heard arguments advanced by Adv. S.S. Thakur for the petitioner, Adv. D.G. Paunikar for the respondent No.1, and Adv. Kalpana Raut for the respondent insurance company.

13] Adv. S.S. Thakur, for the petitioner, submitted that the petitioner has proved that the said vehicular accident took place out of the use of the Maruti Car, and due to rash and negligent driving of the Car by its driver and owner - respondent No.1. She further submitted that the petitioner has also proved by leading cogent evidence that due to accidental injuries, she has suffered permanent disability. She prayed for a grant of just compensation to the petitioner.

14] As against this, Adv. Paunikar for the respondent No.1 submitted that the accident did not take place out of the use of the

Maruti Car owned by the respondent No.1. The vehicle of the respondent No.1, and the respondent No.1, both are falsely impleaded in the said accident by the petitioner. A false charge-sheet was filed in the said crime against the respondent No.1 by the Koradi police station, based on the false and incorrect information furnished to the police. Petitioner has sustained minor injuries. Those injuries cannot be said to be grievous hurt or grievous injuries. Such injuries will not result in any disability. Petitioner has failed to prove that she has incurred medical expenses, she was in private service, or earning Rs.10,000/- per month, or due to accidental injuries she suffered functional disability or loss of earnings. As such, he prayed for dismissal of the claim petition.

15] Adv. Kalpana Raut, for the respondent No.2 insurance company, contended that the involvement of the Maruti Car in the said accident is not proved. The FIR was lodged against the driver of an unknown vehicle. No vehicle was found at the spot of the accident while drawing the spot panchnama. Therefore, this is a case of hit and run. As such, she prayed for dismissal of the claim petition.

16] Based on the rival contentions, evidence, and material on record, I record my findings on the Issues at Exh.20 for the reasons discussed thereunder.

	<u>ISSUES</u>		<u>FINDINGS</u>
1]	Does the petitioner prove that driver of the Maruti Car drove it rashly and in a negligent manner?	..	<u>In the affirmative</u>
2]	Does the petitioner prove that she sustained bodily injuries / permanent disablement?	..	<u>Partly affirmative</u>
3]	Whether petitioner is entitled to compensation? If yes, what would be the amount of compensation?	..	<u>Yes. As per the final order</u>
4]	What order?	..	<u>As per the final order</u>

REASONS

As to Issue No.1:

17] Petitioner herself is an eyewitness to the alleged accident. She pleaded and testified as to the manner of the accident. According to her, on the given date, time, and place, the Maruti Car gave a dash to her Activa from behind. It was being driven by its driver rashly and in a negligent manner. The FIR was given at the Koradi police station by the petitioner herself at 03:00 p.m. on the same day of the accident. In her FIR to the police, she stated that an unknown four-wheeler vehicle gave a violent dash to her Activa from behind. The said vehicle was being driven at high speed and in a negligent manner. Based on her information, Crime No. 188 of 2019 was registered at the Koradi police station against the unknown driver of the unknown vehicle.

18] While drawing the spot panchnama on the same night of the accident, the police and panchas did not notice any vehicle lying on the spot. The police also prepared a sketch map of the spot of the accident in column No.9 of the spot panchnama. As per the petitioner, at the time of the accident, she was riding her Activa and proceeding towards the railway station. Therefore, as seen from the sketch map in column No.9 of the spot panchnama, it seems that the accident took place on the extreme left side of the North-South road. As a fact, the Saoner-Nagpur road runs North - South, exactly contrary to what is shown in the spot panchnama. The said road is 2 way with a divider in between. If the dash could have been given by any four-wheeler vehicle coming from the back side, such a vehicle ought to have been driven, leaving sufficient left side space of the highway for a two-wheeler to pass on, or for a four-wheeler to be overtaken. Therefore, whichever vehicle was involved in the accident was at fault for causing the said accident.

19] PW-3 Dr. Ninad Gawande deposed that the petitioner has given a history of an accident of dash by a truck from the rear end to her two-wheeler. The testimony of PW-3 Dr. Ninad Gawande is corroborated by the discharge summary issued by the Alexis Hospital dated 10.06.2019. However, along with the Detailed Accident Report (DAR) in respect of the said accident (filed by the police and kept with the file of M.A.C.P. No. 577 of 2019), the police have also filed an Injury Report / Forensic Medical Report of the petitioner Hemlata Verma, which is issued by Alexis Hospital on 30.06.2019 under the signature of Dr. Ninad Gawande. In the

injury report, in the history of the case, in short, it is specifically mentioned that it is narrated by the patient and the accomplice. The said history is reproduced below.

History of the case in short (as narrated by patient and accomplice):-History of RTA on 03.06.2019 at about 5:45 a.m. near Koradi Naka, Nagpur - Saoner Road, Distt. Nagpur. Alleged history of dash by a vehicle to patient's 2-wheeler from rear and resulting in fall. Patient was driving 2-wheeler with her sister-in-law as pillion rider. History of altered sensorium for few minutes, followed by vomiting episodes. Was brought by above named person to Alexis Hospital for further treatment and management.

From the alleged history in the injury report, it is apparent that the petitioner did not allege that a truck gave dash to her two-wheeler from behind, but a vehicle is alleged to have given dash to her two-wheeler from behind. Whereas, the history mentioned in the discharge summary dated 10.06.2019, nowhere is it mentioned that such history is given or narrated by the patient or an accomplice. The history narrated by the patient or accomplice, as mentioned in the Injury Report dated 30.06.2019 (filed along with DAR), and not the history mentioned in the Discharge Summary dated 10.06.2019, can be considered.

20] Moreover, the respondent No.1, owner of the Maruti Car, has contested the claim petition. In his evidence affidavit Exh.43, he has specifically deposed in para Nos.6 and 7 about his presence on the spot of accident, which are reproduced below.

6. *That at the relevant time of the alleged incident, I was travelling in my vehicle on the said road. I observed that an accident had occurred ahead and, out of civic duty, I stopped my vehicle to make inquiries. It came to my knowledge that the petitioner, who was riding her Activa scooter without possessing a valid and effective driving license, was driving in a wobbly and unsafe manner. She consequently lost her balance and control over her vehicle and fell down on the road, thereby sustaining injuries due to a dash by an unknown truck. My vehicle was not involved in the said incident in any manner whatsoever.*

7. *That the registration of Crime No.188/2019 under Sections 279, 337 and 338 of the Indian Penal Code by the Koradi police station against the driver of my vehicle is of no legal consequence in these proceedings. It is submitted that the said FIR was registered on the basis of false, incorrect, and motivated information furnished by the petitioner at the instance of interested persons.*

21] From the testimony of respondent No.1 (RW-1), it is apparent that he has not mentioned that which truck has given a dash from behind to the petitioner. He has admitted his presence on the spot. He has admitted that an offence was registered at the Koradi police station against the driver of his vehicle. He admitted that at the time of the accident, he himself was driving his vehicle. According to him, an offence was registered against him at the Koradi police station for causing the said accident.

22] In Form Comp AA, Koradi police station has specifically mentioned that in the said crime, initially, the offence was registered against the unknown vehicle, but subsequently, the

accused (i.e. driver of the offending vehicle) was arrested, and a Final Report/Charge-sheet was filed against him in the court of law. In Form Comp AA, the Koradi police station has specifically mentioned that the accident took place due to a Maruti Suzuki Zen four-wheeler bearing registration No. MH-09/AB-6803, owned and driven by the respondent No.1 and insured with the respondent No.2, at the time of the accident. The respondents have not disputed that the Maruti Car was owned by respondent No.1 and insured with respondent No.2, at the time of accident. Under such circumstances, based on the preponderance of probability, the test which is applicable for adjudication of the claim petitions, I am of the view that the petitioner has probalilized her contention that the said accident took place out of the use of the Maruti Car and the said accident also took place due to the rash and negligent driving of it by its driver. As such, my answer to Issue No.1 is in the affirmative.

As to Issue No.2:

23] Petitioner has pleaded that in the said vehicular accident, she has suffered grievous injuries to both legs and other body parts. However, while deposing, she has stated that in the said accident, she suffered grievous head injury and other body parts, and she was admitted to Alexis Hospital. PW-3 Dr. Ninad Gawande is the treating doctor of the petitioner at Alexis Hospital. He deposed that the petitioner was admitted due to generalised pain and multiple abrasions over the body surface. She was

investigated radiologically. No fracture and no post-traumatic visceral injuries were noticed. She was managed conservatively and was discharged on 10.06.2019 in stable condition. He opined that abrasion injuries are fully curable. In the injury report dated 30.06.2019 of the petitioner, signed by Dr. Ninad Gawande and filed by the police along with the DAR, the following injuries are noticed to have been caused to the petitioner.

1) *Graze **Abrasions** present over left Zygomatic area extending upto lateral cantus of left eye of size - 6 cm X 4 cm, red in colour, directed upwards and laterally.*

2) *Contused **Abrasions** present over posterior aspect of Left Upper Limb involving left shoulder, left elbow, upper 3rd of left forearm, left wrist and hand of size - 5 cm X 3 cm, 3 cm X 2 cm, 5 cm X 4 cm, 3 cm X 2 cm and 2 cm X 1 cm, respectively, red in colour. No signs of any underlying bony fractures.*

3) *Multiple **Abrasions** with swelling, ecchymoses and tenderness present over posterior aspect of Right Upper Limb involving right scapular, upper 3rd of right arm and right forearm of sizes - 8 cm X 6 cm, 4 cm X 3 cm and 5 cm X 4cm, red in colour. No signs of any underlying bony fractures.*

4) *Ecchymoses, muscle hematoma with Graze **Abrasions** present over postero-lateral aspect of Left Lower Limb involving upper 3rd of left thigh and upper 3rd of left leg with overlying graze Abrasions of size - 20 cm X 15 cm and 18 cm X 10 cm, respectively, red in colour. No signs of any underlying body fractures.*

5) *Ecchymoses, muscle hematoma with Graze **Abrasions** present over postero-lateral aspect of Right Lower Limb involving upper 3rd of right thigh with overlying graze Abrasions of size - 25 cm X 15 cm, red in colour. No signs of any underlying bony fractures.*

24] In the injury report, PW-3 Dr. Ninad Gawande has opined that all the examined injuries collectively can be considered to be grievous. However, PW-3 Dr. Ninad Gawande has not deposed either from the discharge summary of the petitioner, or her injury report issued by Alexis Hospital, anywhere it is mentioned that the injuries caused to the petitioner resulted in her permanent disability, or can result in her permanent disability.

25] To prove that she suffered permanent disability due to the accidental injuries, the petitioner examined PW-4 Dr. Abhinav Bhatnagar, Orthopaedic Surgeon. He deposed that in the vehicular accident dated 03.06.2019, the petitioner had sustained blunt injury to the right shoulder along with head injury with multiple facial abrasions. He examined her and issued her permanent disability certificate Exh.41. From the permanent disability certificate Exh.41 issued by PW-4 Dr. Bhatnagar, it seems that the petitioner was examined on 24.09.2023 by him, i.e. after 4 years and 3 months. From the assessment of his disability in Form Comp B Exh.41, i.e. 6% towards blunt injury to the right shoulder and 3% towards mild pain for disfiguration of the face, it apparently seems to be on the too much higher side. PW-4 Dr. Bhatnagar admitted that the petitioner had come to him once on 24.09.2023 only. He has also clinically examined her. However, he admitted that the petitioner can perform her day-to-day work. Therefore, the disability assessed by PW-4 Dr. Bhatnagar, which is not deposed to have caused to the petitioner from the testimony of PW-3 Dr. Ninad Gawande, treating doctor of the petitioner, nor such disability

seems to be possible from the injuries caused to the petitioner as mentioned in her injury report dated 30.06.2019 (filed with DAR and reproduced above), even for the purpose of Newly Amended Section 164 of the Motor Vehicles Act r/w section 320 of the I.P. Code, injuries caused to the petitioner cannot be said to be falls under the definition of "grievous hurt", which is a statutory term, per contra the medical term "grievous injuries". Therefore, though the petitioner has proved that in the said vehicular accident she suffered bodily injuries, has failed to prove that such injuries resulted in her permanent disability. As such, my answer to Issue No.2 is partly affirmative.

As to Issue No.3:

26] Having regard to the nature of injuries caused to the petitioner, she might have incurred Rs.31,471/-, as deposed by her in her evidence affidavit Exh.21. As per PW-3 Dr. Ninad Gawande, at the time of discharge, the petitioner was in stable condition. She was not having any fracture injury. She was managed conservatively. As per the opinion given by PW-4 Dr. Bhatnagar, that the petitioner can perform day-to-day work, in my view, the petitioner has not suffered functional disability or future loss of earnings. The just compensation for which the petitioner is entitled to can be computed as ablow.

Rs.35,000/-	..	Medical expenses.
Rs.30,000/-	..	Loss of earning during the period of treatment.
Rs.20,000/-	..	Pain and suffering.
Rs.15,000/-	..	Special diet & travelling expenses, etc.
<u>Rs.1,00,000/-</u>	..	<u>Total amount of compensation (including NFL amount, if any)</u>

27] The fact is not disputed that at the time of the accident, the Maruti Car was owned by the respondent No.1, and insured with the respondent insurance company. Therefore, respondents are jointly and severally liable to pay the aforesaid amount of compensation to the petitioner.

28] It seems that the petitioner herself is an instrument in dragging the claim petition from 2019 till date. As such, the petitioner is entitled to interest at the rate of 7% per annum on the above amount of just compensation. As such, my answer to Issue No.3 is accordingly in the affirmative. As a result, I proceed to pass the following order.

ORDER

- i] Claim Petition is partly allowed with proportionate costs.
- ii] The respondents jointly and severally do pay to the petitioner, an amount of compensation of **Rs.1,00,000** (Rupees One Lac only) (including the amount received by the petitioner towards the 'No Fault Liability', if any), along with interest at the rate

of 7% per annum thereon, from the date of petition till its realisation.

- iii] The Registrar (MACT), Nagpur, to take the account details of the petitioner, which shall be of any Nationalised Bank only, and send it to the respondents, for compliance.
- iv] The respondents shall deposit the entire amount of compensation in the bank account of the petitioner.
- v] Award be drawn accordingly, but only after the petitioner affixes the deficit court fees, if any, on the amount of awarded just compensation.

Nagpur.
Date: 04/05/2026

[Dinesh P. Surana]
Chairman, MACT &
Principal District Judge, Nagpur.

Case argued on	:	18/04/2026
Judgment dictated on	:	04/05/2026
Transcription ready on	:	04/05/2026
Judgment checked and digitally signed on	:	04/05/2026

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CERTIFICATE

I affirm that the contents of this PDF file of the Judgment are word-to-word, as per the original Judgment.

Name of Stenographer Prashant P. Yenurkar
(Grade I)